



17-19

Delegated decision repo

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE 31 OCTOBER 2019

PUBLIC SPACES PROTECTION ORDERS CONSULTATION

**CABINET MEMBERS FOR COMMUNITY SAFETY AND
PUBLIC PROTECTION AND ENVIRONMENT AND
HERITAGE.**

EXECUTIVE SUMMARY

1. To authorise officers to publicise the proposed order and to carry out consultation as required by the Anti-Social Behaviour Crime and Policing Act 2014.
2. The authority is looking to introduce new Public Spaces Protection Orders (PSPOs) across a number of public realm areas within the Isle of Wight.
3. Public Spaces Protection Orders will replace a range of powers introduced by previous legislation, including Designated Public Place Orders (DPPOs), which related to anti-social drinking, and Dog Control Orders (DCOs), which place restrictions on dog walkers in certain locations. The orders relate to dog fouling, dogs on leads and dog exclusion zones and areas related to anti-social drinking.
4. The previous orders automatically merged into PSPOs without requiring any changes, however, a number of additional proposals have been suggested in the new orders, these include:
 - identifying where dogs can access beaches;
 - identifying the areas where dogs should be on a lead in public parks;
 - identifying the areas (beaches, play areas, cemeteries) where dogs should be excluded.
5. The introduction of new orders requires the local authority to consult to ensure key stakeholders and local communities are engaged.
6. This report recommends the local authority enters into a period of formal consultation (six weeks) so it meets its legal and statutory consultation obligations.

7. Comments received through the consultation process will all be considered and may be taken into account when consideration is given to formulise the new PSPOs.
8. It is proposed the new PSPOs will be in place for the summer season, May 2020.

BACKGROUND

9. The power to grant Public Space Protection Orders (PSPOs) was given to local authorities in the Anti-Social Behaviour, Crime and Policing Act 2014.
10. The PSPO will only be enforceable from that date if signage is placed on site and the order is advertised on the council website. The PSPOs will remain in force for up to three years from the point of initiation and can be varied or discharged at any time. A PSPO can only be renewed if there is evidence that meets the criteria set out in the act, and there is no limit on the amount of times a PSPO may be renewed.
11. Following extensive consultation about tackling anti-social behaviour, the Anti-Social Behaviour Crime and Policing Act 2014 was passed in order to streamline the wide range of powers in existence to tackle anti-social behaviour. Some of the new powers were made available to both police and local authorities and some just the police but only local authorities can implement PSPOs.
12. A public space protection order (PSPO) can require or prohibit certain activities from taking place in certain places (restricted areas) in order to prevent or reduce any detrimental effect caused by those activities to local people. PSPOs are intended to:
 - tackle a wide range of behaviour similar to the 'good rule and government' byelaws under the Local Government Act 1972 but with the option of a fixed penalty notice on breach (see PSPOs and byelaws: overlap) and more flexibility;
 - cut down on existing consultation requirements by only requiring local authorities to comply with 'light-touch' consultation requirements in order to save costs;
 - allow local authorities to deal with both existing and future problems by using a single order to combat a variety of different issues;
 - replace designated public place orders and dog control orders.
13. The legislation also requires that the local authority conduct consultation prior to making, extending or varying a PSPO. Consultation must include:
 - The Hampshire and Isle of Wight police and crime commissioner;
 - whatever community representatives the local authority thinks it appropriate to consult; and
 - where relevant, the owner or occupier of land within the restricted area.

14. The local authority must publicise any new PSPO, including the text of the order as well as any proposed changes to existing orders. They must also notify the parish or town council for that area (if any).
15. Breach of a PSPO, without reasonable excuse, is a criminal offence and can be dealt with by way of fixed penalty notice (FPN) up to a maximum of £100 or by reporting the individual for summons. On prosecution, the penalty is a level 3 fine, which is currently set at a maximum of £1,000. Both the local authority and police have the power to enforce breaches of PSPOs.
16. These powers will be delegated to enforcement officers within Neighbourhoods directorate including, environment officers, environmental health officers, licensing and accredited community support officers, who would take a lead role in enforcement.

STRATEGIC CONTEXT

17. With reference to the 2019-2022 Corporate Plan the implementation of PSPOs will support the following core outcomes, particularly:
 - work with strategic partners and key stakeholders to ensure the Island has effective and robust arrangements to ensure the safety of the community at all times;
 - continue to build on the good partnerships that we have in place and focus our efforts on those partnerships that make a significant contribution to our priority outcomes and vision;
 - to support the council's approach to the promotion of positive health and wellbeing by encouraging people to utilise our green open spaces.

CONSULTATION

18. Between October 2018 and February 2019 officers entered into a period of informal consultation with key stakeholders, (town and parish councils, landowners and strategic partners). This consultation was undertaken via direct written correspondence and meeting where requested.
19. Officers structured this early consultation in such a way that it made it clear to partner organisations what the PSPOs were and what they intend to replace, and the consultation process.
20. During this period of consultation officers made some suggestions to existing orders and logged responses from stakeholders – (Appendix 1).
21. The feedback received at that time has assisted the local authority with its proposals.
22. Formal consultation will be supported by local press notices followed by online social media and web page information.

FINANCIAL / BUDGET IMPLICATIONS

23. The statutory notice to consult will be promoted through the local press advert. To place this notice in the local press will cost £500 this will be allocated from existing budgets.
24. Once orders have been approved there will be a requirement to promote the affected areas with local signage. Officers estimate that £10,000 will be required to replace existing signs. This will be funded from the existing public realm capital budget with ongoing maintenance covered from existing environment officer revenue budgets.

LEGAL IMPLICATIONS

25. A PSPO is designed to prevent anti-social behaviour in a public place. Public place is defined as 'any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission'.
26. There is a requirement to ensure that the relevant legislation is complied with when making a PSPO. This includes ensuring the measures proposed are necessary and proportionate to the problem as well as giving due regard to the rights of freedom of expression and freedom of assembly set out in the Human Rights Act 1998.
27. Under S59 Anti-social Behaviour, Crime and Policing Act 2014 a Local Authority must be satisfied on reasonable grounds that the activity subject to the Order:
 - (a) Has, or likely to have, a detrimental effect on the quality of life of those in the locality
 - (b) Is, or is likely to be, persistent or continuing in nature
 - (c) Is, or is likely to be unreasonable
 - (d) Justifies the restrictions being imposed
28. There is a statutory and legal requirement to consult on the PSPO proposals.
29. The validity of a PSPO may be challenged by judicial review in the High Court within six weeks from the Order being made. An individual who lives in or regularly visits the restricted area may challenge a PSPO on the grounds that the local authority did not have the power to make or vary the Order, or to include particular prohibitions or requirements imposed by the Order, or that a requirement in the 2014 Act was not complied with in relation to the order or variation

EQUALITY AND DIVERSITY

30. An equality impact assessment (EIA) has been provided as appendix 5. This will be updated further when the consultation process has been completed.

SECTION 17 CRIME AND DISORDER ACT 1998

31. The implementation of the Public Spaces Protection Orders supports Section 17 of the Crime and Disorder Act 1998 (as amended by Police and Justice Act 2006). The local authority has a duty to exercise its various functions reasonably to prevent, crime, disorder, antisocial behaviour adversely affecting the environment.
32. The purpose of PSPOs is to directly deal with instances of nuisance or anti-social behaviour which are detrimental to the local communities' quality of life. Such anti-social behaviour can also result or encourage further criminal activity. This proposal directly supports the council's responsibility under section 17 of the Crime and Disorder Act 1998.
33. As a statutory consultee the police will provide feedback and comment on the production, management and enforcement of PSPO proposals.

OPTIONS

34. To go out to public consultation the proposed public spaces protection orders, and on completion bring back a report to Cabinet in early 2020 with the findings. To go out to public consultation and on completion bring back a report to Cabinet in early 2020 with the findings.
35. Not go out to public and stakeholder consultation on proposed PSPOs.

36. RISK MANAGEMENT

37. There are no risks if option 1 is approved. It is recommended that a full risk review and assessment is undertaken after the consultation period has ended. This will form part of the next report.
38. Where existing Dog Control Orders are in place, in order for the provisions to be maintained these must be transferred to a PSPO through this process.
39. The PSPO provisions are designed to address anti-social behaviour and nuisance issues that are having or are likely to have a detrimental effect on the local community. Failure to implement this or implement them effectively may lead to the continuation of this nuisance or antisocial behaviour. Conversely, it should be noted that draconian implementation of these provisions has drawn negative, sometimes national, press therefore any provisions must be carefully considered and be a fair and proportionate response to evidence.

EVALUATION

40. We are seeking community and key stakeholder views to ensure our PSPO proposals address anti-social behaviour to keep our neighbourhoods cleaner and safer. We have already engaged partner organisations informally on our proposals and now propose to consult formally with these agencies and the general public.

41. On completion of this consultation period to provide a further report to members on the findings of the consultation process and any proposed amendments prior to orders and enforcement powers being implemented on 1 May.

RECOMMENDATION

42. To go out to public consultation the proposed public spaces protection orders, and on completion bring back a report to Cabinet in early 2020 with the findings.

APPENDICES ATTACHED

43. [Appendix 1: Dog fouling area proposal maps](#)
[Appendix 2: Dog exclusion area proposals maps.](#)
[Appendix 3: Dog on lead area proposals maps.](#)
[Appendix 4: Alcohol consumption control zone proposals maps.](#)
[Appendix 5: Equality impact assessment](#)

BACKGROUND PAPERS

44. Copies of informal consultation responses.

Contact Point: Lee Matthews, Strategic Manager, Recreation & Open Space,
☎ 821000 e-mail lee.matthews@iow.gov.uk

All representations in regard to this decision must be submitted to delegated.decisions@iow.gov.uk by the close of the consultation period.

Colin Rowland
Director of Neighbourhoods

Cllr Tig Outlaw
*Cabinet Member for Community Safety
and Public Protection*

Cllr John Hobart
*Cabinet Member for Environment and
Heritage*